



Appeal Decision

Site visit made on 29 July 2025

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 August 2025

Appeal Ref: APP/T5150/W/25/3366664

Land to Rear of 59 Pound Lane, London NW10 2HH

Easting (x): 522370 Northing (y): 184272

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr. Feeney against the decision of the Council of the London Borough of Brent.
 - The application reference is 25/0207.
 - The development proposed is the erection of new 2.5 storey block of 3no flats with external amenity space, refuse and cycle parking.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. In the absence of a site location address on the application form I have adopted the descriptive location used in the application form, and the address from the appeal form in the banner heading above. I have also included Easting and Northing co-ordinates for clarity.

Main Issues

3. The main issues are:
 - Whether the proposed development would provide adequate living conditions for future occupiers of: a) the proposed ground floor flat with particular regard to outlook, privacy and light; b) the proposed second floor flat with particular regard to the provision of adequate internal living accommodation; and c) the proposed development with particular regard to the provision of external amenity space;
 - The effect of the development on the living conditions of existing occupiers of neighbouring properties with particular regard to outlook;
 - The effect of the development on highway safety with regard to the provision of car parking;
 - Whether the proposed development makes an adequate contribution to urban greening;
 - Whether the proposed development would include appropriate measures for fire safety; and
 - The effect of the development on the character and appearance of the area including the setting of nearby grade II listed park and garden.

Reasons

Future Living Conditions

Second Floor Flat

4. The proposed second floor flat is described by the appellant as a 1-bed one person unit. According to the standards set out in London Plan Policy D6, the gross floor area (GIA) for a double (or twin) bedroom is required to be 11.5sq.m. At 12.8 sq.m the bedroom would comfortably exceed these requirements. It is therefore highly likely that it would be occupied by two persons. Moreover, restricting its occupation to a single person could not be reasonably conditioned and therefore the flat should be considered a two-person unit for the purposes of providing adequate living conditions.
5. London Plan Policy D6 states that a 1-bed two person unit should provide a minimum GIA area of 50sq.m. The Council state that the GIA of the flat is 43.5 sq.m. This has not been disputed. It would therefore fall significantly short of the 50sq.m requirement for a unit of this type and therefore would not provide adequate living conditions in this respect and therefore would be contrary to this policy.
6. The Council's officer report refers to poor outlook with regard to the second-floor unit however, this has not been transposed into a reason for refusal, and I have no evidence before me to indicate that the living conditions of future occupiers would be compromised in this respect. I have therefore not considered this matter further.

Ground Floor Flat

7. The proposed ground floor flat would have direct access onto an area marked as 'private amenity' which would be 1.5m in depth and surfaced in asphalt. Beyond this would be an area of grassed communal amenity space. It is unclear how the private space would be delineated from the communal space other than by a change in surface.
8. The Council's Residential Amenity Space and Place Quality Supplementary Planning Document 2024 (SPD) advises that outdoor private amenity space should, amongst other things, have a balance of openness and enclosure appropriate for its outlook and orientation, as well as being planned to maximise daylight and sunlight.
9. The Council suggests that to protect privacy a high fence around the area would be required, which would mean that the outlook from the windows on the side elevation would be compromised. However, no means of enclosure is indicated on the plans. Therefore, based on what is before me, the outlook would from the side windows, be acceptable and would afford some natural surveillance of the communal space beyond. However, whilst a high fence may be excessive, there would be inadequate enclosure of the space to provide any level of privacy for its occupants. Nevertheless, I see no reason why this could not be conditioned had I been minded to allow the appeal.
10. A full height Juliet style window serving the living area and a small kitchen window on the front elevation would be set behind a landscaped area. It would also be set back from the street by a pathway serving the proposed communal open space. Although occupiers of other flats would be likely to pass the kitchen and living area to access the communal amenity space, cycle parking and bin store, the

landscaped area would provide adequate protection from direct overlooking to an extent which would be commonplace for a ground floor window. Moreover, I have no substantive evidence before me to conclude that the arrangement would be likely to lead to curtains being permanently closed to protect privacy, which would be a personal choice for the occupier in any event.

External amenity space

11. Policy BH13 of the Brent Local Plan (BLP) requires housing other than family housing with 3 bedrooms or more to provide 20sq.m of residential amenity space. The supporting text to the policy advises that London Plan Policy D6 sets out the baseline minimum standard for provision of amenity space. The Council's SPD advises that external open space should be a minimum depth and width of 1.5m if not compromised by door swings and should also be practical in terms of its shape and utility. BLP Policy B13 indicates that where sufficient private amenity space cannot be achieved individually for each dwelling to meet the full requirement of the policy, the remainder should be supplied in the form of communal amenity space.
12. From the information before me it would appear that a total of 55 sq.m of communal amenity space would be provided for the use of the occupiers of the three units within an area which would also incorporate bin storage and cycle parking. However, I have no evidence before me to indicate that the communal amenity space would be adequate given the shared use of the area indicated.
13. As set out above the ground floor flat would have direct access to an area designated as private amenity space measuring 10sq.m to the side elevation of the proposed building, which would be adequate in terms of quantum of space provision. However, the plans indicate that a single door would open outwards onto the space, and I have not been provided with any substantive evidence that this arrangement would not impede movement or the usability of the space. As the space would be very narrow at the minimum depth of 1.5m it may be possible to sit out in the space, but it is unlikely that future occupiers would be able to use the space flexibly. Therefore, I am not satisfied that the private amenity space for the ground floor unit would be adequate in terms of its shape and utility in line with the requirements of the SPD.
14. The first- and second-floor flats would have 5 sq.m of private external amenity space in the form of enclosed balconies on the front elevation. The Council has not disputed the level of private amenity space provided for the second floor flat. However, as the first-floor flat is a 2-bedroomed three-person unit, London Plan Policy D6 indicates that 6sq.m of private amenity space should be provided. There would therefore be a shortfall of 1sq.m. There would therefore be some conflict with London Plan Policy D6, although I have no reason to conclude that this would be harmful given that communal open space would be provided to deal with the shortfall.

Conclusion on Future Living Conditions

15. Having considered all the above matters the proposal would fail to provide adequate living conditions for future occupiers. Although I have concluded that the proposal would provide adequate living conditions for the occupiers of the first-floor flat in terms of the provision of external amenity space and the ground floor flat in terms of outlook. There would be conflict with Policy D6 of the London Plan 2021 which seeks to ensure that housing development is of high quality

providing adequate internal space which is fit for purpose and maximises the usability of outside amenity space. There would be no conflict with BLP Policy BH13 which requires sufficient external amenity space to be provided.

Existing Living Conditions

16. The proposed development would be very close to 17-19 Norman Court (Nos. 17 -19). Existing windows in the side elevation would be approximately 2.5 metres from the blank flank wall of the appeal proposal. The appellant has illustrated a 45° line in a horizontal plane from the centre of the neighbouring ground floor side elevation window and 25° lines from some windows in neighbouring developments in vertical plane in an attempt to demonstrate that the proposal would not adversely impact the living conditions of existing occupiers in terms of outlook and sense of enclosure. However, the Council's Design Guide¹ does not advocate the use of any of these rules. It therefore has not been adequately demonstrated that the proposal would not have an adverse impact and daylight, sunlight or outlook to habitable rooms in the neighbouring development, particularly those at lower floors.
17. The appellant has provided numerous examples of the distance of gaps between buildings in the local area. None of these, however, appear to be directly comparable to the circumstances in the relationship of the appeal proposal with Nos. 17-19 where habitable room windows would face a blank flank wall at close quarters.
18. The proposal would be immediately adjacent to the training yard of the neighbouring fire station. I have no substantive evidence before me that there are any development plans for this site or that the status of this site is likely to change in the foreseeable future. Nor have I been provided with any standards for separation distances between residential properties and uses of this nature. I also note that windows overlooking this site could be fitted with obscured glass and the appellant would be willing to accept a condition relating to this. Therefore, the proposal would not have any detrimental impact on the amenity of this site or to the occupiers of the appeal proposal.
19. Although there would be no adverse impact with the fire station site, it has not been adequately demonstrated that the proposal would not adversely affect the living conditions of existing occupiers of Nos. 17-19 in terms of outlook. Therefore, the proposal would not comply with BLP Policy DMP1 which seeks to ensure that development provides high levels of internal amenity for all.

Highway Safety & Car Parking Provision

20. According to the appellants Parking Survey Report² (PSR) the appeal site has a PTAL rating of 4, and the Council states that the appeal site is located within an area with good access to public transport, and therefore no on-site parking is required for the appeal development. The development would, however, be built on an area currently available for car parking for the adjacent block of flats, and therefore occupiers of those units who are entitled to use the parking spaces would be displaced.

¹ Brent's Design Guide SPD1 November 2018

² 59 Pound Lane NW10 2HH Parking Survey Report by Public Highway Ltd (undated and unreferenced)

21. Although the private road which forms the access is not subject to a Controlled Parking Zone (CPZ) many of the streets around it are. At the time of my site visit the appeal site was occupied by several storage containers. However, space for car parking is still available and signage indicates that the area is for residents parking. Whilst information has been provided relating to average car ownership in the area according to census data, this does not equate to information regarding actual usage of the car parking spaces which would be affected by the proposal.
22. The appellant has carried out a parking survey which concludes that there is not excessive parking stress in the streets immediately surrounding the appeal site. However, from information in the PSR and my observations, the area closest to the appeal site is situated on a junction and is subject to double yellow lines or zigzags either side of pedestrian crossings and in front of the nearby fire station.
23. Although some on-street parking may be available for those displaced by the development it would not be conveniently located, especially for those carrying shopping or with mobility issues. Furthermore, although the appellant indicates that parking is available on the private road, from my observations, signage at the junction with Pound Lane indicates that parking here is not permitted. I therefore cannot be certain that it would be available to those displaced by the proposal.
24. In these circumstances, I consider that it has not been adequately demonstrated that the proposal would not lead to indiscriminate parking and other disruptive impacts caused by inappropriate parking caused displaced parking which BLP Policy BT2 seeks to prevent.
25. Based on the evidence before me, I therefore find that the proposal would be in conflict with BLP Policy BT2 which seeks, amongst other things, to ensure that development does not create a shortfall in residents parking.

Urban Greening

26. Policies BH4 and BGI1 of the BLP requires all minor residential developments to deliver an Urban Greening Factor (UGF) of 0.4. The supporting text requires consideration as part of the application process. There is no evidence before me to demonstrate that an UGF of 0.4 would, or could, be delivered on-site.
27. I note that the UGF could be improved through the inclusion of solar intensive roofing. However, there are no details provided. Although it may be possible for this to be conditioned had I been minded to allow the appeal, there would still be a shortfall in the UGF score.
28. Therefore, the proposal does not make suitable provision for the required Urban Greening Factor. It would be contrary to Policies BH4 and BGI1 of the BLP which seek to protect and enhance the existing levels of green infrastructure.

Fire Safety

29. A Fire Strategy Report³ (FSR) has been submitted with the appeal. This was not before the Council at the time of its determination and therefore did not inform the original decision. I am mindful, however, that the appeal process should not be used to evolve a scheme to overcome the Council's reasons for refusal. Nevertheless, the Council have had the opportunity to comment on it during the

³ Fire Strategy Report – London Fire Associates Dated 07/05/2025 Ref: LFA079

course of the appeal although, they have failed to do so. I have therefore no evidence before me to suggest that the FSR does not adequately address the matter of fire safety for future occupiers of the development.

30. Accordingly, subject to a suitably worded condition, I conclude that the proposed development would include appropriate measures for fire safety and therefore there would be no conflict with LP Policy D12 which requires that all development proposals must achieve the highest standards of fire safety and sets out several aspects to be considered.

Character and Appearance

31. The appeal site is located in a predominately residential area, adjacent to another similarly designed residential block at Nos. 17-19 and adjoining the yard of a fire station to the rear. In terms of bulk, massing and design it would be very similar to Nos 17-19 and others close by and therefore would not appear as an alien feature in the street scene or the wider locality.
32. It would be located close to Willesden Jewish Cemetery which is a Grade II listed park and garden. According to the listing entry it is designated for its historical interest as London's pre-eminent Victorian Jewish Cemetery, its associations with many influential families and individuals and its design interest in its layout and buildings.
33. The appellant has provided a short analysis of the relationship of the appeal scheme with the cemetery and concludes that the proposal would not affect the setting of the heritage asset. From my own observations, due to the intervening residential development and the tall training tower in the fire station yard adjacent, I would concur with this view. There would be no harm arising from the proposed development on the character and appearance and the setting of the cemetery and therefore its significance would be preserved.
34. For those reasons, I find that the proposed development would not cause harm to the character and appearance of the area or the setting of the Grade II listed park and garden. There would therefore be no conflict with BLP Policies DMP1 and BHC1 which seek to ensure that development conserves or enhances the significance of heritage assets and their settings and is of scale and design which complements the locality.

Other Matters

35. I acknowledge the appellant's concerns over the Council's handling of the application in terms of engagement with the appellant throughout the application process and conflicts with pre-application advice received. However, this is not a matter that I can consider under a Section 78 planning appeal and does not alter my findings, in which I have had regard solely to the planning merits of the proposal.

Planning Balance and Conclusion

36. The appeal scheme would conflict with the development plan in relation to the provision of adequate internal living accommodation, urban greening factor and the living conditions of existing occupiers of Nos. 17-19 and would adversely affect highway safety in relation displaced car parking as identified above. These are all harms to which I attribute significant weight.

37. The proposed development would deliver three additional self-contained residential units, making efficient use of the land. The contribution to housing supply aligns with the Government's objective of significantly boosting the supply of homes, as set out in the National Planning Policy and reflected in the development plan.
38. The proposal would, however, not adversely affect the setting of the nearby listed park and garden and would not adversely affect the character and appearance of the area. It would also adequately address matters relating to fire safety and bin storage.
39. The contribution to the supply housing would be small however and the benefits of the scheme would attract limited weight in favour of the proposal which would not outweigh the harms when considered cumulatively. Therefore, on balance this leads me to conclude that the proposal would not accord with the development plan when considered as a whole. The appeal is therefore be dismissed.

KL Robbie

INSPECTOR